# CALIFORNIA RACIAL AND IDENTITY PROFILING ADVISORY BOARD

# MEETING MINUTES

**10th Meeting of the Racial and Identity Profiling Advisory (RIPA) Board**

**September 26th, 2018, 10:00 a.m.**
University of California, Davis
Conference Center, Ballroom B & C
550 Alumni Lane
Davis, CA 95616

The tenth meeting of the California Racial and Identity Profiling Advisory (RIPA) Board was held on Wednesday, September 26, 2018 at 10:15 A.M.

**Members Present:** J. Edgar Boyd, Sandra Brown Andrea Guerrero, Mariana Marroquin, Brian Marvel, Doug Oden, David Robinson, Angela Sierra, Warren Stanley, David Swing.

**Members Not Present:** Micah Ali, Oscar Bobrow, Sahar Durali, Alice Lytle, Ben McBride, Tim Silard, Timothy Walker.

**California Department of Justice Staff Present:** Nancy A. Beninati, Supervising Deputy Attorney General, Civil Rights Enforcement Section (CRES); Kelsey Geiser, CRES; Audra Opdyke, Assistant Bureau Chief, Bureau of Criminal Identification and Investigative Services, California Justice Information Services Division (CJIS); Erin Choi, Manager, Client Services Program, Charles Hwu, Manager, Criminal Justice Information Technology Services Bureau; Randie Chance, Program Manager, Bureau of Criminal Identification and Investigation Services, CJIS; Kevin Walker, CJIS, Jannie Smith, CJIS

## 1. Call to Order and Welcoming Remarks

The meeting was called to order at 10:15 A.M. by Co-Chair Guerrero.

Co-Chair Guerrero welcomed the Board and the members of the public to the meeting. Co-Chair Guerrero provided a brief overview of the work the Board has completed prior to the meeting and invited other Board members to provide opening remarks.

Member Brown commented that she has been working for the last nine years on the relationships between law enforcement and the community and commented that California is on the cutting edge of this work. Member Oden thanked the members of the public for attending and participating in the Board's meeting. Member Robinson thanked the DOJ staff and commented that a goal of this Board is to advise law enforcement across the state on areas where there is room for improvement and increased consistency. Member Boyd commented that the Board is

taking a well-rounded approach to solving the issues that occur between law enforcement and citizens of the state. Member Boyd thanked law enforcement across the State for collecting the data to help the Board in completing its work. Member Marroquin thanked all members of the Board and of the public for continuing to show up and contribute even when the issues discussed are sometimes heavy. Member Sierra echoed all previous comments and emphasized that this is a highly important issue to Attorney General Becerra and the DOJ appreciates the open dialogue at each of the meetings and the Board. Member Stanley thanked all attendees at the meeting. Member Marvel commented that law enforcement collects data extremely well and this work is a natural progression.

**2. Update from Department of Justice on Report Progress and Stop Data Collection**

Ms. Beninati thanked the University of California Davis for generously hosting the Board. Ms. Beninati stated that the Board was operating without a quorum of Board members at the beginning of the meeting and would not conduct any official business until a quorum was present. Ms. Beninati welcomed new Board Member Sandra Brown and reminded the Board the Member Brown served as the Board's expert witness for last year's report and was instrumental in assisting the Board with its analysis of POST trainings.

Ms. Beninati reminded the Board members that they are welcome to speak with members of the media but requested that the Board members are clear with the press that they are speaking for themselves rather than for the entire Board as the Board would not have an opportunity to meet and discuss the question or issue. Ms. Beninati requested that Board members inform DOJ staff when they do speak with the media.

Ms. Beninati stated that Board members are also welcome to serve as guest speakers at public meetings but requested that the members keep in mind the Bagley-Keene open meeting rules. Two members can discuss issues before the meeting but if there are three or more members on a panel they can only hold the panel discussion in a public forum, and therefore cannot coordinate and discuss topics related to RIPA Board business ahead of time. Ms. Beninati requested that Board members inform DOJ staff if and when they serve as speakers discussing Board topics.

Ms. Beninati stated that in Board meetings, if there is a substantive issue that the Board would like to vote on, but has not been agendized, that the vote should not be held at that time. This will allow time for members to reflect and confer with the agencies they may represent on the Board, and will prevent any inadvertent open meeting act violations.

Ms. Beninati stated that Jennifer Eberhardt and Alex Johnson have both stepped down from the Board but the Attorney General's Office and the Governor's Office are working on their replacements.

Ms. Beninati commented that the DOJ had hoped to contract with Stanford University's Social Psychological Answers to Real-world Question (SPARQ) but unfortunately issues with the State

contract made the partnership impossible. However, Rebecca Hetey from SPARQ has agreed to contract with the Board again this year to work on data integrity.

Ms. Choi then gave the Board a presentation on the work that has been done for the implementation of the statewide repository and the stop data collection system. Ms. Choi provided the Board with 1) an update on the progress of data collection from the Wave 1 agencies that began collecting data on July 1, 2018 2) an update on coordination efforts with Wave 2 agencies that will begin collecting data on January 1, 2019, and 3) an overview of the submission process and error resolution.

- **Board Member Comments**

  Member Oden asked if the data will be submitted to the DOJ in bulk or over time. Ms. Choi responded the agencies can submit the data en masse to the DOJ but they are encouraged to submit the data more regularly. The DOJ hopes that on March 31, 2019 it will have a set of data that does not require any additional error resolution. Member Oden asked what the turnaround time is for the analysis of the data once it is received. Mr. Walker responded that the data analysis will be released with the Board's next annual report.

  Member Marvel asked if the data that the DOJ has received is being analyzed. Mr. Walker responded that the analysis will begin when the data set is complete and all of the data has been submitted to the DOJ. Ms. Beninati commented that the Board will be able to direct what types of data analyses it would like the DOJ Research Center to conduct to cover questions and issues the Board would like to address in its next report. Ms. Choi commented that there are analysts who are looking at the data from an implementation side to determine if it is complying with the DOJ standards and if additional training or outreach is necessary.

  Member Marvel asked if agencies that are using the DOJ portal are able to access the data at any point or if they have to wait until it is all submitted. Ms. Choi responded that agencies do have access the data through different user roles such as officers to submit the data and supervisors who can analyze and review the data or, hopefully soon, download the data.

  Member Boyd asked if law enforcement has had any trouble with the system or with entering the data. Ms. Choi responded that the DOJ has been working with agencies for nearly two years to help with the implementation and adjustment. The DOJ has received comments regarding the amount of time necessary to collect the data, but since the data collection process began in July they have not had any major issues.

  Co-Chair Guerrero asked what kind of protocols are in place to ensure the data integrity, particularly prior to submission to the DOJ. Ms. Choi commented that those protocols may vary by agency and suggested that the DOJ can survey the agencies with questions

the Board would like answered regarding their collection systems or add an agenda item to the next meeting to invite agencies to present directly on their collection processes. Co-Chair Guerrero asked what role the DOJ plays in ensuring accountability and asked if there is an attestation that could be added to the data submission to assure the public that there is accountability. Ms. Choi commented that the DOJ is working on a close out form for agencies to attest that the records are complete. Ms. Opdyke commented that the DOJ ensures the data integrity once it arrives at the DOJ. Ms. Beninati commented that all agencies are required by law to collect this data an ensure its integrity and if the Attorney General, as chief law enforcement officer of the state, learns that the data is not being property collected or corrupted he has the constitutional power to enforce the law.

Member Oden suggested that law enforcement could sign a declaration that the data has not been manipulated to assist with accountability.

Member Sierra commented that research can be done as to particular statutes that apply to the truthful submission of information to the DOJ and commented that there is not a one-size-fits-all policy for data collection for all agencies.

Member Robinson asked if DOJ is the only agency receiving funding for the implementation of this data. Ms. Beninati responded that agencies can received funding through the state mandates process. Member Robinson commented that that process can take a few years. Member Robinson stated that most agencies will likely not have a problem with signing an attestation as Co-Chair Guerrero suggestions, but also reminded the Board that this is perceived data. Member Robinson suggested inviting a few agencies that have begun collecting the data to present to the Board about their collection process and systems and how they ensure integrity of perceived data.

Co-Chair Guerrero agreed with Member Robinson's suggested approach as a preliminary step and then using this information to inform a potential attestation.

Member Boyd asked if a hard copy of the data is being maintained by the agencies and if there is opportunity to conduct an audit later in the process to attest to the accuracy of the data received. Ms. Choi responded that some agencies collect this data electronically but the regulations require that agencies maintain the data for three years if they are not using the DOJ portal.

Member Robinson commented that all law enforcement falls under the umbrella of the Attorney General of California and that office can investigate any agency which may include an audit.

**3. Public Comment**

Melanie Ochoa of the ACLU of Southern California echoed concerns about the data integrity prior to submission to the DOJ. Ms. Ochoa suggested that members of the public are included in

the video deliverable devoted to data integrity. Ms. Ochoa commented that if audits are not automatically possible under the law if the DOJ can seek authorization or partnership to engage in that work, which would potentially remove the burden of lack of funding from local agencies. Ms. Ochoa asked how errors such as missing narratives will be addressed by agencies that are not using the DOJ data collection system. Ms. Ochoa asked how agencies submitting data annual can resolve errors on records that were collected many months before and asked that all agencies are required to fill their data collection forms out completely before moving on.

Kalyn Dean with PICO California commented that this data is based on perception and if the community perceived that there are loopholes in the data collection and data set it undermines the deliberations that occurred for the regulations. Ms. Dean stated that an audit of how local law enforcement agencies are using their collection systems is necessary.

**4. Continued Discussion on Stop Data Collection**

Co-Chair Guerrero noted Member Swing's arrival and announced that the Board has reached a quorum.

**MOTION**: Co-Chair Guerrero made a motion to invite all Wave 1 agencies to come to the next Board meeting to describe the processes by which they are entering their data and maintaining internal integrity. The motion was seconded by Member Oden. No objections were raised.

**APPROVAL**: The motion was approved with all members in attendance voting "Yes", no members voted "No", and Member Swing abstained. Members Ali, Bobrow, Durali, Lytle, McBride, Silard, and Walker were not present for the vote.

**5. Break**
The Board recessed for five minutes.

**6. Selection of a New Co-Chair**

Co-Chair Guerrero commented that Member McBride's completed his term as Board Co-Chair and Member McBride and Member Stanley have been nominated as his replacement.

**MOTION**: Co-Chair Guerrero made a motion to open the vote for Member Robinson and Member Stanley.

**APPROVAL**: Member Robinson received eight votes and was approved as Co-Chair of the Board.

**7. Approval of June 19, 2018 Board Meeting Minutes**

**MOTION**: Member Marvel made a motion to approve the June 19, 2018 Board Meeting Minutes. The motion was seconded by Member Swing.

**APPROVAL**: The minutes were approved pending the correction of Member Ali's attendance at the meeting which was incorrectly noted as being "present." All members in attendance voting "Yes", no members voted "No", and Member Swing abstained. Members Ali, Bobrow, Durali, Lytle, McBride, Silard, and Walker were not present for the vote.

**8. Subcommittee Reports**

- **Stop Data Subcommittee**
  Member Oden presented to the Board on the latest meeting of the Stop Data Subcommittee. The subcommittee discussed its work for the 2019 annual report including 1) the analysis of the AB 71 data of incidents from 2017 that results in the discharge of a firearm, serious bodily injury, or death, 2) a plan for analysis techniques that will be considered and utilized to analyze the stop data when it is complete early next year.

  Member Swing commented that the subcommittee also discussed data integrity with the goal of educating the public and law enforcement and establishing high level trust of the data. Member Swing commented that there is a mutual interest among law enforcement and community members in ensuring the veracity in how the data is collected.

  Member Swing commented that the committee will also be working on a list of best practices regarding stops, searches, and seizures with a focus on racial and identity profiling while acknowledging the overlap with the policies subcommittee and best practices for racial and identity profiling policies.

- **Civilian Complaints Subcommittee**
  Co-Chair Robinson presented to the Board on the latest meeting of the Civilian Complaints Subcommittee. The subcommittee discuss its work for the 2019 annual report including an analysis of the civilian complaint data from 2017 submitted to the DOJ reflecting the change suggested by the Board last year to separate data by disposition year. Co-Chair Robinson commented that the subcommittee voted to separate civilian complaint data from local detention facilities that will be further separated out by disposition year.

  Co-Chair Robinson commented that the subcommittee discussed Penal Code section 148.6 that requires all civilian complaint forms to include a disclaimer and signature line and suggested recommending a legislative fix to remove the requirement for a signature line to allow to be made anonymously. Co-Chair Robinson clarified that this would not require agencies to investigate all anonymous complaints if they lacked evidence, but rather recommend that agencies accept, acknowledge the receipt of, and track anonymous complaints. Co-Chair Robinson suggested that a discussion and vote on this potential recommendation be agendized for the next Board meeting.

- **POST Training & Recruitment Subcommittee**
  Member Marvel presented to the Board on the latest meeting of the POST Training & Recruitment Subcommittee. Representatives from POST provided an update to the subcommittee on several projects and trainings they are considering or are in works. POST also invited members of the subcommittee or suggestions of community members to participate in upcoming training development workshops. The subcommittee discussed its work for the 2019 annual report including 1) a list of best practices for trainings that cover racial and identity profiling and 2) a plan for how the subcommittee will cover recruitment in future reports.

  Member Guerrero suggested that the Board discuss funding for training at the next Board meeting and that the topic should be agendized.

  Janna Munk from POST clarified that they are asking community members and RIPA Board members to participate in workshops to develop training for law enforcement that are offered at POST's headquarters as well as other locations across the state.

- **State and Local Racial & Identity Profiling Policies and Accountability Subcommittee**
  Member Stanley presented to the Board on the latest meeting of the State and Local Racial & Identity Profiling Policies and Accountability Subcommittee. The subcommittee discussed its work for the 2019 annual report including a list of best practices for bias-free policing policies.

- **Calls for Service Subcommittee**
  Member Brown presented to the Board on the latest meeting of the Calls for Service Subcommittee. The subcommittee discussed its work for the 2019 annual report including 1) a standalone section on calls for service, 2) an overview of various types of calls for service and a baseline overview of bias by proxy, 3) a literature review on bias by proxy, 4) plan for future reports.

  Member Oden asked if the subcommittee discussed legislation regarding individuals who intentionally make race-based calls for service. Member Brown responded that that will be discussed in future meetings.

Ms. Geiser commented that the work of the Evidence-Based Subcommittee was halted pending review of deliverables from the Board's consultant, Rebecca Hetey.

**9. Break**
The Board recessed for thirty minutes.

**10. Public Comment**

Melanie Ochoa from ACLU of Southern California suggested that the calls for service subcommittee also cover the responses to calls separated by community.

Kalyn Dean of PICO California asked that the civilian complaints subcommittee continue discussing ways to make the complaint forms available to the greatest number of community members.

**11. Discussion of RIPA Board 2019 Annual Report Contents**

Co-Chair Guerrero provided an overview of the proposed draft report outline. Co-Chair Guerrero emphasized that the intent is for this report to be actionable for law enforcement to improve their practices and something the community can use to talk about improvement at the local level and accountability measurements. Co-Chair Guerrero requested that Board members review the outline and provide any feedback and guidance on the outline and commented that the Board will have a full draft to discussed at the Board meeting on November 27, 2018.

- Discussion of Introduction and Stop Data/Data Integrity Report Section
  Member Boyd suggested that the themes that have arisen from public comment be reflected in the report introduction.

  Member Swing commented that the report will cover planned methodologies of analyzing stop data as well as identify benefits and limitations of the methodologies. Member Swing commented that the report will also draw from existing examples of appropriate stop data analyses.

  Member Oden commented that community members have asked when the stop data analysis would be available and asked if it would be possible to analyze the data more frequently than on an annual basis.

  Co-Chair Robinson commented that it would be helpful for agencies that will collect the data in the future to know how long it is taking agencies that have begun to collect the data to input the data.

  Member Oden asked how long it takes to report errors discovered by the DOJ back to the agencies to make the corrections and how would this effect the time for analysis.

  Co-Chair Guerrero suggested including language in the report about what the DOJ knows to date about lag time in correcting discovered errors in the data and how long it is taking agencies to input the data.

  Member Swing commented that law enforcement also feels the same need for data integrity and it is a shared concern.

Member Stanley asked what the report will cover regarding Wave 1 stop data collection given that the data will not be fully reported until spring of 2019. Ms. Geiser responded that the section will provide an overview of the work the DOJ and the Board have done with Wave 1 agencies in assisting with the implementation process and in commencing the data collection process.

- Discussion of Racial and Identity Profiling Policies Report Section
  Member Stanley commented that supervisory review and oversight will be an important portion of the list of best practices for racial and identity profiling policies.

  Co-Chair Guerrero emphasized that the best practice lists are not intended to provide model language or actual policies but rather elements the Board hopes law enforcement will consider incorporating into their own policies or trainings.

- Discussion of Civilian Complaints Procedures and Policies Report Section
  Co-Chair Robinson suggested that the public comment regarding the number of ways to access the complaint form be incorporated into the draft. Co-Chair Robinson suggested that the Board suggest in its best practices that agencies accept and look into anonymous complaints whether or not the Board decides to make an official legislative recommendation regarding Penal Code 148.6.

  Mr. Walker commented that the DOJ has changed the civilian complaint collection form to allow for disaggregation by disposition year and disaggregation of data from local detention facilities and will go into effect for the data collected in 2019.

- Discussion of Training Report Section
  Member Marvel suggested that the report also reflect a conversation about funding for training development and implementation.

  Member Oden suggested that the report detail how much time is set aside for each training on racial and identity profiling.

  Ms. Munk from POST commented that the number of hours for each training can be provided to the Board.

  Co-Chair Guerrero asked how POST evaluates its trainings.

  Ms. Munk responded POST evaluates trainings for timing, content, effective delivery, instructors and participant feedback.

  Co-Chair Guerrero asked if at the law enforcement level, beyond POST's evaluation of its own trainings, there is an evaluation of the effectiveness of its trainings or if that should be considered as a potential best practice.

Member Stanley commented that it is a best practice for agencies to evaluate the trainings their officers participate in.

Ms. Munk provided details on instructor development within POST and how it is analyzed.

Co-Chair Guerrero suggested reflecting on POST trainings as well as other trainings provided to law enforcement agents across the state and cover best practices for evaluation on the training.

Member Marroquin suggested including a reflection from Board members who attended POST trainings or workshops in the report.

- Discussion of Calls for Service Report Section
  Member Sierra commented that this section plans to set the stage for this topic and will likely not include best practices but is something the subcommittee will look toward for future reports.

Member Swing suggested the inclusion of a general review and literature review on bias in general. Member Stanley responded that the section on racial and identity profiling policies will include an overview of the literature review conducted to develop the best practices.

Co-Chair Robinson asked if DOJ had statistics on how many times the previous report was published.

Member Oden stated the importance of knowing how the Board's report is getting out to the public and how the public responds to the work.

Co-Chair Guerrero suggested creating an outreach plan for this year's report.

Ms. Beninati commented that the DOJ will work with its internal communications office in the dissemination of the Board.

Co-Chair Guerrero suggested including in the conclusion or introduction a list of ways the public can contribute to the work of the Board.

**12. Public Comment**

Melanie Ochoa of the ACLU of Southern California suggested that the analysis plan for the stop data include statewide and agency level analyses. Ms. Ochoa suggested that the Board include model policies in its report in addition to the best practice lists.

Co-Chair Guerrero responded that the Board is hoping to provide actionable information and potentially work toward model policies in future years, but given the time constraint for the annual report providing best practice elements this year.

Kalyn Dean of PICO California suggested that the Board leverage other researchers and organizations that have worked on model policies. Ms. Dean suggested that the best practices also be featured on oag.ca.gov to allow the public to easily click through the information. Ms. Dean suggested that the calls for service subcommittee discuss punitive measures for when biased calls are made. Ms. Dean suggested that the Board continue considering the Principled Policing training in its reports. Ms. Dean suggested that the Board include the number of training hours that are mandated by the State in terms of how the racial training fits in to the wider universe of training the agents receive. Ms. Dean requested that the level of detail provided by Ms. Choi in her update on the stop data collection be included in the report. Ms. Dean suggested including language in the report around why agencies are or are not using the DOJ collection system.

**13. Approval of Next Steps**

Co-Chair Robinson commented that three items should be agendized for the next Board meeting; 1) discussion of anonymous complaints, 2) funding for training and policy development, 3) data integrity particularly for agencies that will not be using the DOJ data collection system.

**14. Closing Remarks and Adjourn**

The meeting was adjourned by Co-Chair Robinson at 2:30 p.m.